

HOUSE BILL No. 1480

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-9; IC 28-1-31.

Synopsis: Prepayment penalties. Allows a borrower to prepay part or all of the unpaid balance of a home loan without a prepayment penalty or other fee.

Effective: July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Financial Institutions.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1480

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-9-2-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Except as
3 provided in subsection (b), "points and fees" means the total of the
4 following:
5 (1) Points and fees (as defined in 12 CFR 226.32(b)(1) on January
6 1, 2004).
7 (2) All compensation paid directly or indirectly to a mortgage
8 broker, including a broker that originates a loan in the broker's
9 own name.
10 As used in subdivision (2), "compensation" does not include a payment
11 included in subdivision (1).
12 (b) The term does not include the following:
13 (1) Bona fide discount points.
14 (2) An amount not to exceed one and one-half (1 1/2) points in
15 indirect broker compensation. ~~if the terms of the loan do not~~
16 ~~include a prepayment penalty that exceeds two percent (2%) of~~
17 ~~the home loan principle.~~



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(3) Reasonable fees paid to an affiliate of the creditor.

(4) Interest prepaid by the borrower for the month in which the home loan is closed.

SECTION 2. IC 24-9-3-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. A creditor shall allow a borrower to prepay part or all of the unpaid balance of a home loan without imposing a prepayment penalty or other fee on the borrower.**

SECTION 3. IC 24-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The following additional limitations and prohibited practices apply to a high cost home loan:

(1) A creditor making a high cost home loan may not directly or indirectly finance any points and fees.

(2) Prepayment fees or penalties may not be included in the loan documents for a high cost home loan or charged to the borrower if the fees or penalties exceed in total two percent (2%) of the high cost home loan amount prepaid during the first twenty-four (24) months after the high cost home loan closing.

(3) A prepayment penalty may not be contracted for after the second year following the high cost home loan closing.

(4) A creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The terms of the offer must be made in writing and must be initiated by the borrower. The document containing the offer must be clearly labeled in large bold type and must include the following disclosure:

"LOAN PRODUCT CHOICE

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty."

as provided in IC 24-9-3-10.

~~(5)~~ (3) A creditor shall not sell or otherwise assign a high cost home loan without furnishing the following statement to the purchaser or assignee:

"NOTICE: This is a loan subject to special rules under IC 24-9. Purchasers or assignees may be liable for all claims and defenses with respect to the loan that the borrower could assert against the lender."

~~(6)~~ (4) A mortgage or deed of trust that secures a high cost home loan at the time the mortgage or deed of trust is recorded must prominently display the following on the face of the instrument:

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1 "This instrument secures a high cost home loan as defined in
2 IC 24-9-2-8."

3 ~~(7)~~ (5) A creditor making a high cost home loan may not finance,
4 directly or indirectly, any life or health insurance.

5 SECTION 4. IC 28-1-31 IS ADDED TO THE INDIANA CODE AS
6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2005]:

8 **Chapter 31. Prepayment Penalties on Home Loans**

9 **Sec. 1. The definitions in IC 24-9-2 apply throughout this**
10 **chapter.**

11 **Sec. 2. A financial institution shall allow a borrower to prepay**
12 **part or all of the unpaid balance of a home loan without imposing**
13 **a prepayment penalty or other fee on the borrower.**

14 **Sec. 3. This chapter is not intended to conflict with regulations**
15 **of the federal Office of Thrift Supervision (12 CFR 560 et seq.).**

16 **SECTION 5. [EFFECTIVE JULY 1, 2005] IC 24-9-3-10 and**
17 **IC 28-1-31, both as added by this act, apply only to home loans (as**
18 **defined in IC 24-9-2-9) entered into, renewed, or refinanced after**
19 **June 30, 2005.**

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